

# **EXHIBIT E**

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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LEXINGTON INSURANCE COMPANY  
and NATIONAL UNION FIRE  
INSURANCE COMPANY OF  
PITTSBURGH, PA,

Plaintiffs,

vs.

VIRGINIA SURETY COMPANY, INC.,  
Defendant.

Civil Action

No. 04-11109 RGS

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DEPOSITION OF ELIZABETH VISCIONE

Tuesday, August 1, 2006

9:57 a.m.

Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.

One Financial Center

Boston, Massachusetts 02111

Reporter: Dana Welch, CSR, RPR

Certified LiveNote Trainer

1 A. Lexington Insurance.

2 Q. And what have you done at Lexington?

3 A. For eight years, I was an examiner in  
4 their primary casualty unit. And I'm coming up on  
5 my two-year anniversary of being a primary casualty  
6 unit manager.

7 Q. What is an examiner?

8 A. Well, because we're a surplus lines  
9 company, we were called examiners as opposed to  
10 adjusters. And it meant that we just administered  
11 the claim and basically worked through independent  
12 adjusters and defense counsel as opposed to  
13 actually adjusting the claims ourselves.

14 Q. And what do you mean exactly by adjusting  
15 the claims yourselves?

16 A. Well, being able to conduct  
17 investigations, negotiate settlements, which  
18 requires adjuster licensing. We're a surplus lines  
19 company. We are not admitted. So we do not obtain  
20 adjuster licenses in all of the states where we  
21 handle claims.

22 Q. And what are surplus lines; what does that  
23 mean?

24 A. It's a non-admitted carrier.

1 Q. What does that mean?

2 A. We're not licensed to do business in a  
3 particular state where we are doing business.

4 Q. And the practical effect of that is?

5 A. There really is none that I'm aware of.  
6 It's just that we are not licensed. And typically,  
7 we will write risks that admitted carriers will not  
8 write. We're allowed to write business in a state  
9 where an admitted carrier may choose not to write  
10 that particular risk.

11 Q. Okay. And the unit that you worked in as  
12 an examiner is the primary casualty unit?

13 A. Yes.

14 Q. And what is that?

15 A. Well, we handle files under casualty  
16 policies.

17 Q. And why is it called the primary casualty  
18 unit?

19 A. Because typically the policies were on  
20 primary paper.

21 Q. Are excess policies handled by a different  
22 unit?

23 MR. COHEN: Objection.

24 THE WITNESS: No. There are excess